

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 11742 of 2023

Petitioner :- Manveer

Respondent :- Smt Omkari And 2 Others

Counsel for Petitioner :- Kumar Dhananjay

Hon'ble Ashutosh Srivastava,J.

Heard Shri Kumar Dhananjay, learned counsel for the petitioner.

Considering the nature of the order that is proposed to be passed, the service of notice upon respondents is being dispensed with.

The present petition under Article 227 of the Constitution of India has been filed seeking direction to the learned Civil Judge (Jr.Div.)-II-cum-Judicial Magistrate, Hapur to decide the Original Suit No. 4 of 2023 (Manveer versus Smt. Omkari and others) expeditiously within a time frame fixed by this Court.

Though the aforesaid prayer has been made for expediting the entire suit proceedings, learned counsel for the petitioner during the course of the arguments has limited his relief for expeditious disposal of the interim injunction application (Paper No. 6C), which is stated to be pending since 25.1.2023.

Learned counsel for the petitioner has invited the attention to the order-sheet of the suit, which has been filed as Annexure-2 to the petition, to demonstrate that the Court concerned under the order dated 25.1.2023 was of the view that the interim injunction application can be disposed of only after the defendants put in appearance.

Learned counsel for the petitioner submits that the defendants Nos. 1 to 3 have appeared in the proceedings on 24.2.2023 and has filed an application under Order 7 Rule 11 for rejection of the plaint, which too is pending consideration. He submits that once the defendants have put in appearance in the proceedings and the 6C application was directed to be considered after appearance of the defendants, the Court concerned was under an obligation to consider the interim injunction application. However, despite various dates being fixed, interim injunction application is not put for consideration. He, therefore, prays that the Court concerned be

directed to consider and pass appropriate orders on the interim injunction application within the time frame fixed by this Court.

Having heard learned counsel for the petitioner and having perused the record, this Court finds that defendants have already put in appearance pursuant to the notices issued by the trial court on the interim injunction application as far back as on 24.2.2023 and thereafter they have filed an application under Order 7 Rule 11 CPC. However, no objection have been filed to the interim injunction application and now, the matter is pending consideration for objection to be filed to the application under Order 7 Rule 11 CPC.

In the opinion of the Court, both the applications i.e. interim injunction application as well as application under Order 7 Rule 11 CPC can be directed to be decided by the Court concerned, expeditiously.

Accordingly, the petition is ***disposed of*** by requiring the learned Civil Judge (Jr.Div.)-II-cum-Judicial Magistrate, Hapur to invite objections to the application under Order 7 Rule 11 CPC as well as application for interim injunction within a period of three weeks' from today and thereafter, fix the case for consideration of above applications within three weeks thereafter. All the endeavour shall be made by learned Civil Judge (Jr.Div.)-II-cum-Judicial Magistrate, Hapur to decide aforesaid application within a period of six weeks from the date of service of certified copy of the order of this Court, strictly, in accordance with law.

Order Date :- 29.11.2023

Ravi Prakash

(Ashutosh Srivastava, J.)